



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	18
VAC Chapter Number:	130
Regulation Title:	Real Estate Appraiser Board Rules and Regulations
Action Title:	Amending
Date:	2/07/03

Please refer to the Administrative Process Act (§ 2.2-4000 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

The final regulations incorporate changes to the criteria set forth by the Appraiser Qualifications Board and standards set by the Appraisal Standards Board of the Appraisal Foundation, permit renewal on an inactive status, and make clarifying changes.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

The Virginia Real Estate Appraiser Board reviewed and adopted the final regulations, entitled "Real Estate Appraiser Board Rules and Regulations," on November 5, 2002.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.

Section 54.1-2013 of the Code of Virginia states that the Board "may do all things necessary and convenient for carrying into effect the provisions of this chapter and all things required or expected of a state appraiser certifying and licensing agency under Title 11 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. § 3301 et seq.)" (FIRREA). FIRREA was passed by Congress in 1989 as a result of the savings and loan crisis and requires the state licensing of real estate appraisers. FIRREA created the Appraisal Subcommittee which monitors and reviews the practices, procedures, activities, and organizational structure of the Appraisal Foundation. The Appraisal Foundation consists of the Appraiser Qualifications Board (AQB) and the Appraisal Standards Board (ASB). The AQB sets minimum qualifications all states must use in licensing appraisers. The ASB promulgates the Uniform Standards of Professional Appraisal Practice (USPAP) which are incorporated into the Board's regulations. AQB Qualifications Criteria and USPAP can be found at www.appraisalfoundation.org.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the final regulations is to further protect consumers, primarily financial institutions, from making unsound loan decisions by insuring competency, including continuing competency, of all licensed real estate appraisers. The final regulations incorporate changes

made by the federal regulating bodies, permit renewal on an inactive status, and make clarifying changes.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.

Clarify language contained in 18 VAC 130-20-30.4 and 18 VAC 130-20-180.K.2 regarding criminal convictions by adding "A certified copy of a final order, decree or case decision by a court with the lawful authority to issue such order decree or case decision shall be admissible as prima facie evidence of such conviction."

Move the language contained in 18 VAC 130-20-40.3 to 18 VAC 130-20-30 which will make the requirement applicable to all applicants, not just reciprocal applicants. This provision was in place when Virginia applicants were required to take a rules and regulation portion of the examination and reciprocal applicants were not. Currently, no applicants are required to take a rules and regulation examination.

Amend qualifications for temporary licensure provisions to: specify that a specific appraisal assignment may include multiple properties; delete language regarding substantially equivalent requirements in other jurisdictions; delete reference to disciplinary actions in other jurisdictions; delete the age requirement; and specify that more than one temporary license may be issued per year. All of these changes were recommended by the Appraisal Subcommittee.

In Part III, Renewal of License, add language permitting an individual to renew a license on inactive status. This would permit the licensee to retain the license without meeting the continuing education requirements and to activate the license at a future time. Currently, licensees who are not currently practicing take the continuing education to renew their license, which is a significant financial burden, or let the license expire and reapply, meeting all current entry requirements.

Make the following changes based on changes in AQB criteria:

- Require USPAP courses to be taught by instructors certified by the Appraiser Board effective January 1, 2003 (18 VAC 130-20-70 and 18 VAC 130-20-220).
- Require trainees who remain in the classification in excess of two years to complete continuing education in the third and successive years (18 VAC 130-20-110).
- Delete the continuing education requirement contained in 18 VAC 130-20-110 (requires 3 of the 28 hours to be a Board approved course on recent developments in federal, state and local real estate appraisal law and regulation and the Uniform Standards of Professional Appraisal Practice) and replace it with a 7-hour requirement for a USPAP update course.
- Replace 18 VAC 130-20-180.H.3 regarding record keeping requirement for supervising appraisers with "The appraiser trainee shall be entitled to obtain copies of appraisal reports he or she prepared. The supervising appraiser shall keep copies of

- appraisal reports for a period of at least five years or at least two years after final disposition of any judicial proceedings in which testimony was given, whichever period expires last.”
- Make distance learning course criteria currently applicable only to prelicense courses applicable to continuing education courses. See 18 VAC 130-20-230.

Permit courses approved by the Appraiser Qualifications Board to meet Board requirements without further review. 18 VAC 130-20-200 currently requires that AQB approved courses be submitted for approval and review like all other courses.

In Part IV, Standards, change all references to a specific section of the Uniform Standards of Professional Appraisal Practice to a general reference to insure that all provisions relevant to a specific appraisal assignment apply.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term “issues” means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The advantage to the public and the Commonwealth resulting from the final regulatory changes is to further protect consumers, primarily financial institutions, from making unsound loan decisions by insuring competency, including continuing competency, of all licensed real estate appraisers. No disadvantages have been identified.

Statement of Changes Made Since the Proposed Stage

Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.

18 VAC 130-20-10. Definitions. Appraiser – change to read “Appraiser means one who is expected to perform valuation services competently and in a manner that is independent, impartial and objective”. This change is made in response to public comment.

18 VAC 130-20-10. Definitions. Experience, Fee/Staff – change to read “Fee/staff experience” means experience acquired as either a sole appraiser, as a cosigner, or through disclosure of assistance in the certification in accordance with the Uniform Standards of Professional Appraisal Practice”. This change is made in response to public comment.

18 VAC 130-20-10. Definitions. Real estate counseling experience – change “counseling” to “consulting”. In subsection g, change “signature of real estate counselor” to “signature of appraiser”. These changes are made in response to public comment.

18 VAC 130-20-10. Definitions. Valuation – change “estimate of the value of real property” to “estimate or opinion of the value of real property”. This change is made in response to public comment.

18 VAC 130-20-10. Definitions. Valuation assignment – change “estimate of the value of an identified parcel of real property” to “estimate or opinion of the value of an identified parcel of real property”. This change is made in response to public comment.

18 VAC 130-20-30 3. General qualifications for licensure – change requirement for an “affidavit certifying” to a “statement verifying” that the applicant has read and understands the regulations. This change is necessary to move to electronic submission of application documents.

18 VAC 130-20-30 8. General qualifications for licensure – change requirement relating to experience from “execute an affidavit” to “verify”. This change is necessary to move to electronic submission of application documents.

18 VAC 130-20-30 8a. General qualifications for licensure – delete requirement for the licensed residential appraiser to obtain experience “continuously over a period of not less than 24 months”. This change is made in response to public comment.

18 VAC 130-20-30 8b. General qualifications for licensure – change requirement for the certified residential appraiser to obtain experience “continuously over a period of not less than 24 months” to “during no fewer than 24 months”. This change is consistent with AQB requirements.

18 VAC 130-20-30 8b. General qualifications for licensure – change requirement for the certified general appraiser to obtain experience “continuously over a period of not less than 30 months” to “during no fewer than 30 months”. This change is consistent with AQB requirements.

18 VAC 130-20-40 3. Qualifications for licensure by reciprocity - change requirement from signing an “affidavit certifying” to “verify” that the applicant has read and understands the regulations. This change is necessary to move to electronic submission of application documents.

18 VAC 130-20-40 6. Qualifications for licensure by reciprocity – regarding criminal convictions change “the record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted” to “a certified copy of a final order, decree or case decision, by a court with the lawful authority to issue such order, decree or case decision”. This is consistent with 18 VAC 130-20-30 5.

18 VAC 130-20-50. Qualifications for temporary license – change requirement from signing an “affidavit certifying” to “verify” that the applicant has read and understands the regulations. This change is necessary to move to electronic submission of application documents.

18 VAC 130-20-50 5. Qualifications for temporary licensure – regarding criminal convictions change “the record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted” to “a certified copy of a final order, decree or case decision, by a court with the lawful authority to issue such order, decree or case decision”. This is consistent with 18 VAC 130-20-30 5.

18 VAC 130-20-60 2. Qualifications for licensure as an Appraiser Trainee – with regard to education, add a requirement to have obtained the education “within the five year period immediately preceding application for licensure”. This is consistent with AQB requirements.

18 VAC 130-20-110 A3. Qualifications for renewal – change “an update on the Uniform Standards of Professional Appraisal Practice” to “the National Uniform Standards of Professional Appraisal Practice course or its equivalent”.

18 VAC 130-20-110 A. Qualifications for renewal – delete the entire old subsection B regarding who shall complete continuing education. This issue is addressed in the first sentence of subsection A.

18 VAC 130-20-210 A1. Standards for the approval of appraisal educational offerings for prelicensure credit – change “completed a 15 hour classroom hour course in the Uniform Standards of Professional Appraisal Practice” to “completed the 15 hour National Uniform Standards of Professional Appraisal Practice course or its equivalent”. This change is consistent with AQB requirements.

18 VAC 130-20-210 B. Standards for the approval of appraisal educational offerings for prelicensure credit – add “all courses in the Uniform Standards of Professional Appraisal Practice must be instructed by an Appraisal Qualifications Board certified instructor”. This change is consistent with AQB requirements.

18 VAC 130-20-230 G and H. Procedures for awarding prelicense and continuing education credits – amend all subsections relating to distance education to track language in AQB requirements.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

Commenter	Summary of Comment	Response
Gary Tarbet 20459 Oatlands Chase Place Leesburg, VA 20175-8831	Section 30 8 a - Remove the requirement for licensed residential appraisers to have	This change is adopted. This requirement is not contained in the Appraiser Qualifications Board’s criteria and therefore

	obtained their experience “continuously over a period of not less than 24 months”.	should be deleted from the regulations.
Sherry C. Webb voll4fun@attbi.com	Section 30 8 a - Remove the requirement for licensed residential appraisers to have obtained their experience “continuously over a period of not less than 24 months”.	This change is adopted. This requirement is not contained in the Appraiser Qualifications Board’s criteria and therefore should be deleted from the regulations.
Charles D. Clark Clark Realty Services Corporate Center II 4456 Corporation Lane Suite 145 Virginia Beach, VA 23462	Section 110 A 3 - The 3-hour Board course should not be replaced with the 7-hour National USPAP course due to a shortage of instructors.	The Appraiser Qualifications Board is mandating this change effective January 1, 2003, therefore, it must remain in the Board’s regulations. No change is required.
	All instructors of USPAP, whether for prelicense education or continuing education must be certified by the Appraiser Qualifications Board in accordance with their criteria.	No response required.
George Mann George.Mann@suntrust.com	Supports all changes, the inactive status is long overdue.	No response required.
Joseph R. Durrer Jr. 4227 Colonial Avenue, SW Roanoke, VA 24018	Section 10 Definitions (Analysis) - USPAP now refers to an “opinion” of value. “Analysis” is a part of “valuation services” that’s now part of the Definitions section of USPAP.	USPAP Definitions define “valuation services” as “services pertaining to all aspects of property value”. This is not inconsistent with the regulatory definitions. No change is required.

	Section 10 Definitions (Appraiser) - Need to refer to USPAP Definitions for definition of “Appraiser”	Definition changed to “one who is expected to perform valuation services competently and in a manner that is independent, impartial and objective.”
	Section 10 Definitions (Experience Fee/Staff) - add “or through acknowledgement”. “Through acknowledgement” is the vehicle used to recognize and validate the significant contribution of one who has participated in an appraisal assignment.	This change is adopted. The definition of “Fee/Staff Appraiser” experience is changed to read as “a sole appraiser, as a cosigner, or through disclosure of assistance in the certification in accordance with the Uniform Standards of Professional Appraisal Practice.”
	Cite specific USPAP provisions throughout.	The Board specifically decided to make all citations to USPAP general to ensure that when discussing a specific provision of the regulations, there is no limitation to the specific portions of USPAP which may apply. No change is required.
	Section 10 Definitions (Experience, Reviewer) Add “or acknowledgement” after “co-signer” in last subparagraph.	The language regarding acknowledgement would not apply to the Reviewer category of experience. No change is required.
	Section 10 Definitions - Change Real Estate Appraisal “Counseling” to “Consulting”.	This change is adopted.
	Section 10 Definitions (Experience, Supervising Appraiser) real estate appraiser” might better be termed person “performing functions or duties within a real estate appraisal assignment”.	Both “appraiser” and “real estate appraisal activity” are defined in the regulations. No change is required.

	Section 10 Definitions (Valuation) add “or opinion” after estimate.	This change is adopted.
	Section 30 3 – Agree with change.	No response required.
	Section 50 5 – Agree with change.	No response required.
	Section 30 7 - Change the requirement for certified general appraisers to complete at least 30 hours of classroom hours in the appraisal of nonresidential properties to 45 or 60 hours.	There is no evidence that an additional requirement would better protect public health, safety and welfare. It would, however, be more burdensome to the applicant. No change is required.
	Why is Section 50 2 deleted?	This is consistent with requirements for temporary licenses set forth by the Appraisal Subcommittee. The license status of the applicant is checked through the National Registry. No change is required.
	Delete Section 50 6. If there are problems in other jurisdictions, do not invite into Virginia.	This provision does not require the Board to approve such applications, it merely permits the Board to do so. Regarding disciplinary actions, this is consistent with all other jurisdictions. Regarding criminal convictions, Section 54.1-204 of the <i>Code of Virginia</i> requires the Board to consider each application and apply the statute. No change is required.
	Section 60 4 b (3) - Adjoining states set minimum standards for trainee experience (500 hours in West Virginia, 50 assignments and 75% of work in North Carolina).	There is no evidence that the public has been harmed by the current requirements. Unlicensed individuals can perform the same work as trainees. To impose an experience requirement would add a burden to the applicant and would accomplish no

		purpose. It is in the public’s interest not to make the trainee license difficult to obtain because individuals that do obtain the license fall under the Board’s jurisdiction. No change is required.
	Section 70 - Agree with requirement for USPAP instructors to be certified by the Appraiser Qualifications Board.	No response required.
	Section 110 A 1 – Seminar not required to have instructors approved by the Board.	No change required.
	Section 110 B – Delete continuing education requirement for 15-hour USPAP course every six years.	Change adopted. See Section 220 B.
	Section 110 - Course and seminar instructors need prior approval and monitoring – at least have a student mail-in critique.	Pre-license courses must be taught by Board certified instructors. All USPAP courses, both prelicense and continuing education, must be taught by instructions certified by the Appraiser Qualifications Board. There is no data to justify increasing this requirement. The Board has received one complaint against an instructor since its inception in 1991. No change is required.
	Section 180 C – What is required if seal isn’t used to validate signature? This was changed to accommodate EDI.	Subparagraph 2 of this section requires that reports submitted without the use of the seal shall contain the signature and license number of the appraiser. No change is required.

	<p>Section 180 D – the reference to the definition of “market value” in USPAP refers to the Definitions Section of USPAP. The definition is in the Glossary of USPAP.</p>	<p>The 2002 edition of USPAP contains a definition of “market value” in the DEFINITIONS section. No change is required.</p>
	<p>Section 220 - Need vehicle to pre-approve seminar (continuing education) title/content.</p>	<p>This would require the establishment of extensive administrative procedures, which would result in fees charged to providers which would in turn result in higher costs to take the classes for the licensees. There is no evidence that such a program would enhance public health, safety and welfare. Currently, all continuing education submissions are reviewed for length and content at the time they are submitted by the licensee. No change is required.</p>

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

18 VAC 130-20-10. Definitions. Appraiser – change to read “Appraiser means one who is expected to perform valuation services competently and in a manner that is independent, impartial and objective”. This change is made in response to public comment.

18 VAC 130-20-10. Definitions. Experience, Fee/Staff – change to read “Fee/staff experience” means experience acquired as either a sole appraiser, as a cosigner, or through disclosure of assistance in the certification in accordance with the Uniform Standards of Professional Appraisal Practice”. This change is made in response to public comment.

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18 VAC 130-20-110 A. Qualifications for renewal – delete the entire old subsection B regarding who shall complete continuing education. This issue is addressed in the first sentence of subsection A.

Make the following changes based on changes in AQB criteria:

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18 VAC 130-20-210 B. Standards for the approval of appraisal educational offerings for prelicensure credit – add “all courses in the Uniform Standards of Professional Appraisal Practice must be instructed by an Appraisal Qualifications Board certified instructor”. This change is consistent with AQB requirements.

18 VAC 130-20-230 G and H. Procedures for awarding prelicense and continuing education credits – amend all subsections relating to distance education to track language in AQB requirements.

In Part IV, Standards, change all references to a specific section of the Uniform Standards of Professional Appraisal Practice to a general reference to insure that all provisions relevant to a specific appraisal assignment apply.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

It is anticipated that the final regulations will have no impact on families.